

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

)
)
)
)
)
)
)
)

No. of Copies rec'd 074
List ABCDEF

I. Specific Concerns and Questions

A. Impartiality of the NANP Administrator and Market Considerations

USTA is concerned about the overall situation that we face in this matter. At the time Lockheed Martin developed its business plans to enter the numbering activities of administration of the North American Numbering Plan (NANP) and the Number Portability Administration Center (NPAC) operation, it could reasonably be expected that the company had every intention of continuing those activities at least for the life of the contracts that were granted. Subsequently, Lockheed Martin's directions changed, and its plans now involve an activity that will not permit it to continue as the impartial NANPA.

Now we must consider the acceptability of a new ownership condition for the CIS activity. The proposed new operator is Warburg Pincus. If the proposed transfer is ultimately permitted, Warburg Pincus has reassured the industry that operation of the CIS functions are long term. However, Warburg Pincus faces the legitimate problem that it cannot unconditionally guarantee that it will not also change its business activities. In a question and answer submission distributed at the North American Numbering Council (NANC) meeting on January 20, 1999, Warburg Pincus itself framed a question concerning this issue as Question Number 2² as follows: "Has Warburg Pincus committed to keep its investment in CIS for the remainder of the contracts for both NANPA and the NPACs (e.g., completing the duration remaining of the contracts)?" The response, which was three

²The questions and answers were attached to a letter from Henry Kressel, Managing Director of Warburg Pincus, to Alan Hasslewander, Chairman of NANC, dated January 19, 1999. The questions are acknowledged to be restatements of questions asked during the January 7, 1999 conference call meeting of the NANC.

paragraphs of carefully worded statements concerning intent, is indicative of the legitimate difficulty in answering a question that involves future business direction. A simple "Yes" answer would have provided considerably greater comfort than the response provided.

Accordingly, with these sensitivities noted, USTA requests that Question Number 2 in the January 19, 1999 Warburg Pincus letter to Alan Hasslewander be presented again for Warburg Pincus' further consideration.

This same general concern of USTA is reflected in the response to Question Number 4 of Lockheed Martin's submission, also distributed at the NANC meeting on January 20, 1999.³ Lockheed Martin stated that no consideration has been given to requiring it to divest separately the ownership of either the NANPA or NPAC. USTA believes that additional questions should be posed to Lockheed Martin based on its reply to that question. Specifically, USTA requests that Lockheed Martin be asked if it would give consideration to divesting separately the ownership of either the NANPA or NPAC. If the answer is "no," why not, including an explanation of how and why Lockheed Martin sees a need to keep the two operations together and what benefit keeping the operations together has on the responsibilities of the NANPA.

USTA believes that these questions are relevant, because of the concern that if this transfer is approved as requested, business conditions could change again, requiring further changes. We urgently believe the industry's best interests require that this process result in

³The questions and answers were attached to a letter from Jeffrey E. Ganek, Senior Vice President and Managing Director of Lockheed Martin IMS, to Alan Hasslewander dated January 19, 1999.

a decision that answers the specific request before the Commission and also provides a durable structure for impartiality and continuity in numbering plan administration. USTA requests that, in addition to the specific questions posed here, commenters address the issue broadly as to how the need to repeatedly address issues such as these can be avoided.

B. Warburg Pincus' Relationship with Covad and Other Investments

USTA requests that Warburg provide additional information concerning its interest in Covad Communications Company (Covad).⁴ Question Number 3 of the January 19, 1999 Warburg Pincus letter to Alan Hasslewander dealt with current investments that raised concerns about the neutrality of CIS under Warburg Pincus. In response to that question, Warburg Pincus described Covad as a CLEC which does not operate as a common carrier service provider and does not use numbering resources. USTA requests that the following two follow-up questions be asked: (1) "Does Covad compete against common carrier service providers who use numbering resources? If so, who, which services are involved?"; and (2) "Do the services that Covad provides require services from other carriers that require numbering resources (e.g., resale)?" In addition, USTA requests that Warburg Pincus provide an analysis of the current situation to show that its investment in Covad is in compliance with Section 51.12 of the Commission's rules.⁵

⁴Previous information was provided in the joint Lockheed Martin/Warburg Pincus *Request for EXPEDITIOUS REVIEW OF THE TRANSFER OF THE LOCKHEED MARTIN COMMUNICATIONS INDUSTRY SERVICES BUSINESS*, filed December 21, 1998, pp. 22-23.

⁵47 C.F.R. § 51.12.

Further, if Warburg Pincus does not exercise control over Covad's activities and business operations, presumably Warburg Pincus would not interfere with a decision that Covad might make to enter lines of business that do require NANP resources. USTA requests that the following questions be asked: "If Covad decides to request NANP resources during the term of the contract, does Warburg Pincus consider that such action would create a conflict of interest? If the answer is "yes," what action would Warburg Pincus take to resolve that conflict? If the answer is "no," why not?"

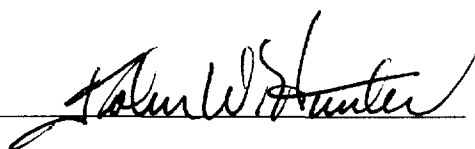
Warburg Pincus' history of its involvement with and investment in other entities will provide some guidance to the Commission and participants as to how it would interact with CIS management and what its long term objectives will be. Therefore, USTA requests that the Commission ask Warburg Pincus the following question: "Describe in depth how Warburg Pincus has handled previous investments similar to the anticipated purchase of CIS. In particular, describe two or more such investments or purchases, outlining the purchase price, sale price, number of years held, Warburg Pincus management involvement in running the business, employee ownership and turnover, nature of the business and how it evolved over the Warburg Pincus ownership period, and any other relevant information. In addition, did Warburg Pincus make any other investments related to its ownership of such companies?"

II. Conclusion

USTA urges the Commission to seek answers to the above questions in determining whether to grant the request of Lockheed Martin to transfer its CIS Business to Warburg Pincus and, if so, whether to impose any conditions on the grant.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By 

Its Attorneys:

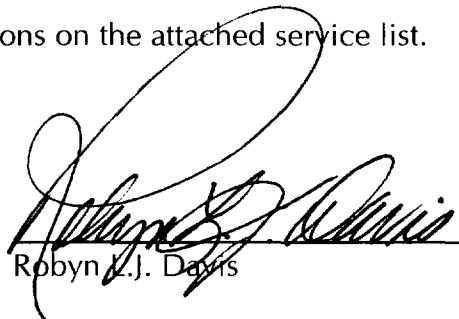
Lawrence E. Sarjeant
Linda L. Kent
Keith Townsend
John W. Hunter

1401 H Street, NW
Suite 600
Washington, DC 20005
(202) 326-7375

January 22, 1999

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on January 22, 1999 copies of the Questions of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



Robyn L.J. Davis

Jeannie Grimes
Federal Communications Commission
2000 M Street, NW
Washington, DC 20554

Marian S. Block
Lockheed Martin Corporation
6801 Rockledge Drive
Bethesda, MD 20817

Cheryl A. Tritt
James A. Casey
Morrison & Foerster, LLP
(Counsel for Lockheed Martin)
2000 Pennsylvania Avenue, NW - Suite 5500
Washington, DC 20006

William H. Janeway
Warburg, Pincus & Co.
466 Lexington Avenue
New York, NY 10017

Philip L. Verveer
Michael G. Jones
Willkie Farr & Gallagher
(Counsel for Warburg, Pincus)
Three Lafayette Centre
1155-21st Street, NW
Washington, DC 20036

ITS
1231-20th Street, NW
Washington, DC 20036